

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5204 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

G S R T C

Versus

BABUBHAI C HALPATI

Appearance:

MR HARDIK C RAWAL for Petitioner

MR MB BUCH for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 22/09/1999

ORAL JUDGEMENT

By way of this petition under Article 227 of the
Constitution of India, the petitioner Corporation has
challenged the impugned award passed by the Labour Court,
Navsari in Reference No. 67/1985.

The facts leading to the filing of the present

petition, in short, are that the respondent was working with the respondent Corporation as a conductor and while he was on duty on 18.8.1981, in a bus plying between Valsad to Ronvel, his bus was checked and it was found that he had collected fare from the passengers but had not issued tickets; That ticket nos. 276460 to 276480 were shown to have been sold but infact they were not sold and they were found from his possession, one passenger was found without ticket though fare was collected from him and way bill was not properly filled up. On the basis of the said charges, the respondent was served with a chargesheet dated 22.9.1981 and thereafter the departmental inquiry was initiated against him and at the end of the said departmental inquiry the respondent was dismissed from service on 6.12.1982 which was challenged by the respondent before the Labour Court by filing Reference No.67 of 1985. Before the Labour Court, the respondent filed pursis at Exh.29 and admitted that he is not challenging the legality and validity of the departmental proceedings initiated against him. The charge of misconduct was also not challenged by him. He only requested the Labour Court to grant reinstatement with continuity of service and made a statement that he is forgoing his claim for backwages for the intervening period. Therefore, the Labour Court has examined the sole question of punishment in light of misconduct which has been committed by the workman. The Labour Court came to the conclusion that the punishment of dismissal imposed on the workman is little but harsh and therefore the Labour Court directed the petitioner Corporation to reinstate the workman with continuity of service and rejected the claim of backwages. Before this Court, the petitioner Corporation has produced the default card of the respondent workman. Mr.Raval, Learned Advocate for the petitioner has submitted that the Labour Court has erred in directing the petitioner Corporation to reinstate the workman. He submitted that the Labour Court ought to have imposed some punishment. He has submitted that the denial of backwages cannot be considered to be punishment in view of the charge levelled against the workman. It is more so when the workman himself had admitted and act of delinquency on his part and had foregone the claim of backwages at his own volition. I am of the opinion that Mr.Raval is justified in submitting that the Labour Court should have imposed some punishment while directing reinstatement of the respondent workman. I am also of the opinion that the denial of backwages cannot be said to be sufficient punishment in light of the misconduct committed by the workman. Mr.Raval has produced letter of the Legal Advisor dated 10.10.1990 in which it has been suggested

that the three increments of the respondent workman should be stopped for the misconduct which has been committed by the workman. Mr.Buch, Learned Advocate for the respondent workman has not objected to the said suggestion. He has submitted that the stoppage of increments should not be given cumulative effect.

In light of all these facts and circumstances of the case, order of punishment is required to be substituted by punishment of stoppage of three annual increments of the respondent workman without cumulative effect from the date of the award passed by the Labour Court on 26.6.1986.

In view of the above facts, the award passed by the Labour Court, Navsari in Reference NO. 67 of 1985 is modified and the petitioner Corporation is directed to reinstate the respondent workman in service with continuity of service and without back wages and is further directed to stop three annual increments of the respondent workman without cumulative effect from the date of the award dated 24.6.1986. The impugned award passed by the Labour Court shall stand modified accordingly. Rule is made absolute to the above extent with no orders as to costs.

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